

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**CH PROPERTIES, L.P.**

**Plaintiff,**

**v.**

**ASSURANCE COMPANY OF AMERICA,**

**Defendant.**

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**CIVIL ACTION NO.:** \_\_\_\_\_

**DEFENDANT'S NOTICE OF REMOVAL**

Defendant Assurance Company of America ("Assurance" or "Defendant") files this Notice of Removal:

1. On September 8, 2010, Plaintiff CH Properties, L.P.. filed this lawsuit in Harris County, Texas, naming Assurance as defendant.
2. Plaintiff served Assurance with a copy of the Petition on September 17, 2010.
3. Defendant files this notice of removal within 30 days of receiving Plaintiff's initial pleading. *See* 28 U.S.C. § 1446(b). In addition, this Notice of Removal is being filed within one year of the commencement of this action. *See id.*
4. All pleadings, process, orders, and other filings in the state court action are attached to this Notice as required by 28 U.S.C. § 1446(a). *See* Plaintiff's Original Petition, Request for Disclosure and First Request for Production ("Petition"). A copy of this Notice is also concurrently being filed with the state court and served upon the Plaintiff.
5. Venue is proper in this Court under 28 U.S.C. § 1441(a) because this district and division embrace Harris County, Texas, the place where the removed action has been pending.

**Basis for Removal**

6. Removal is proper based on diversity of citizenship under 28 U.S.C. §§ 1332(a), 1441(a) and 1446.

7. Plaintiff is, and was at the time the lawsuit was filed, a resident of Texas. (Petition ¶ 2).

8. Assurance is, and was at the time the lawsuit was filed, an insurance company incorporated under the laws of the State of New York, with its principal place of business in Schaumburg, Illinois.

9. This is a civil action in which the amount in controversy exceeds \$75,000.00. Plaintiff alleges that Defendant is liable under a commercial insurance policy because Plaintiff made a claim under that policy and Defendant wrongfully adjusted and denied Plaintiff's claim. Specifically but without limitation, Plaintiff alleges that Defendant breached insurance contract number PPS03205525, effective September 13, 2008 and that provides a Scheduled Building Limit of \$1,627,000.00 for the Loss Location, 1678 FM 1960 West, Houston, Texas, the property giving rise to this lawsuit. (Ex. A-1, Policy; Thompson Declaration.) In addition, Plaintiff's petition alleges that Defendant is liable under various statutory and common law causes of action for actual damages, consequential damages, mental anguish damages, emotional distress damages, statutory penalties, treble damages, exemplary damages, court costs, and attorney's fees. As such, Plaintiff's alleged damages greatly exceed \$75,000.00.

10. Accordingly, all requirements are met for removal under 28 U.S.C. §§ 1332 and 1441. *See* Mem. & Order, *Mesa v. Nationwide Prop. & Cas. Co.*, No. 4:09CV01262 (S.D. Tex. July 24, 2009) (denying motion to remand lawsuit against Nationwide and North Carolinian employee).

**Conclusion and Prayer**

Accordingly, Defendant hereby removes this case to this Court for trial and determination.

Respectfully submitted,

By: /s/ Rhonda J. Thompson

Rhonda J. Thompson, Attorney-In-Charge  
Southern District Bar No. 17055  
State Bar No. 24029862  
THOMPSON, COE, COUSINS & IRONS, LLP.  
700 N. Pearl Street, 25<sup>th</sup> Floor  
Dallas, Texas 75201  
(214) 871-8200 - Telephone  
(214) 871-8209 – Facsimile  
Email: rthompson@thompsoncoe.com

And

George H. Arnold  
Southern District Bar No. 15948  
State Bar No.: 00783559  
THOMPSON, COE, COUSINS & IRONS, LLP  
One Riverway, Suite 1600  
Houston, Texas 77056  
(713) 403-8210 – Telephone  
(713) 403-8299 – Facsimile  
Email: garnold@thompsoncoe.com

ATTORNEYS FOR DEFENDANT

**CERTIFICATE OF SERVICE**

This is to certify that on October 15, 2010, a true and correct copy of the foregoing pleading was delivered to the following counsel of record in accordance with the Federal Rules of Civil Procedure.

Mr. Douglas McIntyre  
700 N. Post Oak Road, Suite 610  
Houston, Texas 77024  
713-365-9886 – telephone  
713-461-3697 – facsimile  
Attorney for Plaintiff

/s/ Rhonda Thompson  
Rhonda J. Thompson